

STATEMENT OF CHARLES DONAHUE, SOLICITOR
OF LABOR, BEFORE THE SELECT SUBCOMMITTEE
OF THE HOUSE COMMITTEE ON EDUCATION AND
LABOR ON H.R. 10721, EMPLOYEES' COMPENSATION
ACT.

Bill file

September 8, 1965

Mr. Chairman:

I appreciate this opportunity to testify in support of H.R. 10721, a bill to provide interim improvements in the Federal Employee's Compensation Act. Federal employees look to this Act to give them or their survivors a decent income when employment causes disability or death. Regrettably, today for many employees the Act falls far short of sustaining this reasonable hope.

The Compensation Act stipulates that employees without dependents will receive two-thirds of their monthly pay when totally disabled; with dependents, the promise is of income indemnity up to three-fourths of salary. The maximum dollar limit under the Compensation Act now, however, is \$525 a month. This limit, in many cases, pares the percentage of salary payable down to an extremely low figure. For sixteen years, this \$525 maximum has been unchanging. With each Federal salary increase, therefore, the proportion of working income restored under the Compensation Act for employees above a certain grade has consistently declined. H.R. 10721 would make up for some of this decline.

As to an equitable and long range proposal to perfect workmen's compensation protection for Federal employees, we are awaiting the findings of the President's Cabinet Committee on Federal Staff Retirement Systems which is making a collateral study of the Compensation Act. When the report of the Committee is filed on December 1, 1965, we will use it in further assessment of the FECA.

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As you know, the Federal Employees Compensation Act was enacted in 1916 and has since been amended very few times to increase benefits, irrespective of advancements in the economy. In 1916 when the first Federal Employees' Compensation Act was passed the maximum monthly payment for total disability was the odd sum of \$66.67. Eleven years later, in 1937, it was doubled, to \$116.65. Here it remained until 1949 when for the first time in the Act's history, the maximum was substantially increased, to \$525. It has remained in this groove, since that time, despite the great economic changes we have experienced.

Between 1949 and 1964 Government earnings increased by 80% and the Consumer Price Index increased by 31%. The top salary for classified employees was \$10,330 a year, now it is \$24,500. But an injured Federal employee today--as in 1949--can expect to receive compensation income of only \$6,300 a year.

During recent years the Congress has demonstrated its concern for the welfare of employees generally through legislation such as that which provides for manpower development and training activities, area redevelopment, equal pay, and the increase of Federal salaries. In line with improvements in the economic status of private employers, it appears both imperative and desirable to provide fair workmen's compensation benefits for Federal employees. The economic plight of our injured employees insistently calls for attention.

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To illustrate this point, first, let us examine the case of a flight test pilot with an annual salary of \$14,965 which amounts to more than \$1,110.00 a month, who will be incapacitated for months because of a fractured vertebrae column. Under present law he can receive only \$525 a month, approximately 50% of his present salary.

A second example involves an employee of one of our international agencies who was shot in a foreign country and, as a consequence, is paralyzed. The disabled employee's salary was \$14,595 per year. However, because of the dollar ceiling limitation of \$525 a month, he will receive compensation amounting to only \$6,300.00.

The proposal before you alleviates to some extent situations such as these by increasing the present dollar maximum to \$685 a month. H.R. 10721 would permit employees making \$11,511 (the equivalent of a GS-11, step 10 or a GS-12, step 5) or less, to receive benefits up to the 75% maximum of basic monthly compensation which the Act authorizes if dependents are involved. Available information indicates that 93.8% of all Federal workers are in this category.

When the \$525.00 maximum was established in 1949, 99.5% of all Federal employees were eligible for up to 75% of their salary. Whereas today, only 85.6% of Federal employees are entitled to receive up to the 75% authorized in the Act.

As you know, the Act conforms to the recognized principle that a disabled worker with a family requires more compensation than one with no dependents. In such cases, the Act augments the 66 2/3 percent compensation for total disability by 8 1/3% for dependents up to 75% of salary. However, the augmentation of basic compensation for dependents is ~~Approved For Release 2005/07/13 : CIA-RDP67B00446R000600010007-8~~ less of \$420.

The bill, therefore, amends the Act to increase from \$420.00 to \$546.00 the limit upon the amount of an employee's basic pay which may be considered in computing additional compensation because of dependents. If this were not done, the increase in the maximum which is proposed would be held down in cases involving dependents by another outmoded figure.

Under the Act, survivor benefits now range from 45 percent of the monthly pay of a deceased employee for a widow without dependent children up to 75%, depending on the number of children. The present dollar limit of \$525 per month for survivor benefits would also be increased to \$685.00 per month, by this bill, thereby enabling a greater number of beneficiaries to receive up to the allowable 75%.

The proposal also increases the minimum compensation amount of \$180.00 per month to \$210 a month, approximately the same as the minimum wage under the Fair Labor Standard's Act. With today's living costs, it is believed that employees earning \$210.00 a month or less would be unable to subsist on 75% of their earnings and that therefore, their entire earnings should be paid during total disability. Only a few thousand blue collar employees are within a wage bracket so low they would be affected by this provision. The minimum rate for employees under the Classification Act GS-1, step 1 is \$3,385, or approximately \$280 a month, a much higher figure than the blue collar minimum.

To assure that the income status of persons already on the rolls is also improved by these amendments, provision is made in this bill for increases in previous compensation awards on a basis which is consistent with increases in the Consumer Price Index. These awards are to be adjusted on the basis of the percentage change in the annual average

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Consumer Price Index as determined by the Secretary, between the year of the award and the most recently available annual CPI figure (presently the average for 1964). This increase would be offset by any increase authorized by Congress since the award adjudications.

In addition, the bill clearly indicates that it applies only to persons who are "employees" under the Act as distinguished from those persons not having a technical "employee" status to whom the benefits of the Act have been extended. In order to prevent any unforeseen anomalous situation from arising, there are cautionary statements that no reduction in compensation by reason of Consumer Price Index changes is authorized or that no previous compensation award shall be increased by more than the applicable change. Further, payments are authorized only on a prospective basis.

The bill also extends the benefits, of surviving children of employees who are fatally injured in employment, from the age of 18 until the age of 23 if the child is still attending school. This provision reflects the concern of the Administration to encourage and increase educational opportunities.

As you know, one of the basic reasons for making compensation awards to or on behalf of children is to defray living costs during the period of dependency. It was quite logical for these benefits to expire at age 18 in 1916 since at that time most children of 18 could reasonably be expected to become self-supporting, irrespective of whether they had finished high school.

Today education beyond high school is becoming increasingly necessary because of rapid technological changes and the increased number of professional, technical and other jobs which require additional education. This has resulted in lengthening the period of dependency. Therefore the increased family financial need could be alleviated and education encouraged if the survivor payments continue until such time as the child could normally finish college (i.e., the age of 23).

To prevent inequities with respect to children who became 18 before the effective date of this Act, who are now pursuing an education and are not yet 23 and, therefore, could qualify for the continuation of benefits, the bill authorizes payment of compensation on their account as for other surviving children in school.

This is not a new or unique proposal since several other Federal programs provide precedents for continuing benefits to children after the age of 18. Under the "War Orphans educational assistance program of the Veteran's Administration," benefits may be continued up to age 23 if the child is attending school. The Civil Service Retirement program generally pays benefits up to the end of the academic year in which the student reaches age 21.

The Act which established the medicare program supported by the Administration and enacted on July 30, 1965, sec. 306(s), provides for continuation of a child's Social Security insurance benefit if he is a full-time student under 22 years of age.

The States are also concerned about proposals such as this, an example of the States recognition of the need for this type of provision

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is the "Workman's Compensation Rehabilitation Law" recently recommended by the Council of State Governments which contains a provision similar to the one here proposed, except that it provides for the continuation of benefits until the students reach the age of 25.

Even without such precedents, the continuation of compensation for education is socially and economically desirable in our society which regards the education of off-spring as one of the breadwinner's primary responsibilities.

A technical amendment is proposed to transfer a substantive item from the Department of Labor Annual Appropriations Act to the Compensation Act. For many years, the appropriations acts of the Department have provided that the rule-making authority of the Secretary of Labor under the Federal Employees' Compensation Act be construed to include the authority to establish the nature and extent of proofs and evidence required in compensation claims of certain non-citizens and nonresident employees employed outside the United States.

In conclusion, I urge the Committee to support this bill which applies the principles of fairness and concern to meet a great need of Federal employees. These amendments will not only benefit Federal employees and their families but will tend to make Government employment more attractive to qualified individuals who can contribute to the efficiency of our Federal Service.